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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/591,114	08/31/2006	Laszlo Szarvas	13111-00046-US	6621
23416 7590 02/26/2010 CONNOLLY BOVE LODGE & HUTZ, LLP P O BOX 2207 WILMINGTON, DE 19899				
EXAMINER				
KOSACK, JOSEPH R				
ART UNIT		PAPER NUMBER		
1626				
MAIL DATE		DELIVERY MODE		
02/26/2010		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/591,114

**Applicant(s)**

SZARVAS ET AL.

**Examiner**

Joseph R. Kosack

**Art Unit**

1626

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 November 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 and 19-22 is/are pending in the application.
- 4a) Of the above claim(s) 17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 and 19-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB-08)  
Paper No(s)/Mail Date 08/31/2008
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

Claims 1-17 and 19-22 are pending in the instant application.

#### ***Election/Restrictions***

Applicant's election with traverse of Group I (claims 1-16 and 19-22) along with an election of species in the reply filed on November 17, 2009 is acknowledged. The traversal is on the ground(s) that the search would not be unduly burdensome. This is not found persuasive because search burden is not a consideration under lack of unity.

The requirement is still deemed proper and is therefore made FINAL.

Claim 17 is withdrawn from consideration by the Examiner under 37 CFR 1.142(b) as being drawn to a non-elected invention.

The Applicant has made an election of species in the instant application. As shown in the previous action, the species lack unity of invention. Due to the lack of unity of the species, the search has been limited to species where the compound containing a double-bonded nitrogen atom is an imidazole compound. The non-searched subject matter, namely where the compound containing a double-bonded nitrogen atom is not an imidazole compound, cannot and will not be searched in the instant application. The Applicant is encouraged to pursue the non-searched subject matter in a divisional application. The non-searched subject matter of claims 1-16 and 19-22 is withdrawn from consideration by the Examiner under 37 CFR 1.142(b) as being drawn to a non-elected invention.

#### ***Priority***

The claim to priority as a 371 filing of PCT/EP05/02253 filed on March 3, 2005, which claims benefit of DE 10 2004 010 662.2 filed on March 4, 2004 is acknowledged in the instant application.

***Information Disclosure Statement***

The Information Disclosure Statement filed on August 31, 2006 has been considered by the Examiner.

***Claim Objections***

Claims 1-16 and 19-22 are objected to for containing elected and non-elected subject matter. The non-elected subject matter has been identified above.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-16 and 19-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The instantly claimed invention is drawn to a process for preparing an ionic compound comprising at least one cation containing a quaternary sp<sup>2</sup>-hybridized nitrogen atom in which the reaction uses a dialkyl sulfate with "participation" of both alkyl groups of the dialkyl sulfate.

Firstly, it is not known what is meant by the term "participation." There is no definition in the specification to show what is meant by participation. The metes and bounds of the term "participation" are unknown because the person of skill in the art

would not be sure to what degree of participation is required. It is not known whether both alkyl groups of the dialkyl sulfate required to react, to facilitate a reaction, to dissolve the imidazole or other cationic component, etc....

Secondly, a quaternary nitrogen implies that there are 4 atoms attached to the nitrogen atom, not three atoms with one atom doubly bonded.

Appropriate correction is required.

### ***Conclusion***

Claims 1-16 and 19-22 are rejected. Claims 1-16 and 19-22 are objected to.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph R. Kosack whose telephone number is (571)272-5575. The examiner can normally be reached on M-Th 6:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph McKane can be reached on (571)-272-0699. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Joseph R Kosack/  
Examiner, Art Unit 1626